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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 08/895,950      | 07/17/1997  | ANDREAS WINTER       | HOE-90/F-333        | 1558             |

7590 01/17/2002

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| EXAMINER |
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TESKIN, FRED M

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| ART UNIT | PAPER NUMBER |
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1713

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DATE MAILED: 01/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

T.D-26

# Office Action Summary

Application No.  
08/895,950

Applicant(s)  
Winter, et al.

Examiner  
Fred Teskin

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1713



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three (3) MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Dec 27, 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 19-26 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-15 and 19-26 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- |  |  |
|--|--|
| 15) <input type="checkbox"/> Notice of References Cited (PTO-892)                              | 18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)          | 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ | 20) <input type="checkbox"/> Other:  |

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1. The finality of the Office action of September 14, 2001, is **withdrawn** and prosecution herein reopened so that new issues may be raised as detailed *infra*.

2. Receipt is acknowledged of the supplemental Reissue Declaration submitted December 27, 2001, which obviates the rejection under 35 U.S.C. 251 as per section 3 of the previous Office action.

3. This application is objected to under 37 CFR 1.172(a) as the assignee has not established its ownership interest in the patent for which reissue is being requested. An assignee must establish its ownership interest in order to support the consent to a reissue application required by 37 CFR 1.172(a). The assignee's ownership interest is established by:

(a) filing in the reissue application evidence of a chain of title from the original owner to the assignee, or

(b) specifying in the record of the reissue application where such evidence is recorded in the Office (e.g., reel and frame number, etc.).

The submission with respect to (a) and (b) to establish ownership must be signed by a party authorized to act on behalf of the assignee. See MPEP § 1410.01.

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An appropriate paper satisfying the requirements of 37 CFR 3.73 must be submitted in reply to this Office action.

4. With respect to the Assent of Assignee filed July 10, 2001, the following deficiencies are noted:

(i) The Assent was signed by a different assignee (Basell Polypropylen GmbH) than that indicated in Office assignment records (Targor GMBH). The assignee indicated by the documentary evidence must be the same assignee which signed the consent (see MPEP 1410.01). While the Assent indicates the assignee has changed its name, documentation of the same (e.g., certificate of a change of name of a business) has not been made of record. Although a mere change of name does not constitute a change in legal entity, it is properly a link in the chain of title (see MPEP 314).

(ii) The Assent incorrectly identifies the frame number where the assignment of the patent undergoing reissue is recorded. According to Office records, the original assignment is recorded at frame 752, not 753 as stated in the Assent.

Accordingly, a new assent of assignee complying with the requirements of 37 CFR 1.172 and 3.73(b) is required.

5. The disclosure is objected to because of the following informalities: the cross-reference text inserted as the first

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paragraph of the specification per the amendment of July 17, 1997 should be revised to read as follows:

This application is a voluntary Reissue Divisional Application under 37 CFR 1.177 of copending Reissue Application No. 08/324,260, filed October 17, 1994, now Re 37,208 E, both of which are reissues of U.S. Pat. No. 5,276,208 (Application No. 07/789,361, filed November 8, 1991).

6. Claims 1-15 and 19-26 are allowable in substance on the present record.

7. Applicant is notified that any subsequent amendment to the specification and/or claims must comply with 37 C.F.R. § 1.121(b).

8. In view of the new issues raised above, this action is made non-final.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner F. M. Teskin whose telephone number is (703) 308-2456.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached on (703) 308-2450. The appropriate fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-5408 and (703) 305-5433.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

  
FRED TESKIN  
PRIMARY EXAMINER  
1713

FMTeskin/01-14-02